

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

VIRDA BELL BULLARD; et. al.)	
)	
Plaintiffs,)	
)	
vs.)	
)	Case No. 07-C-6883
BURLINGTON NORTHERN SANTA)	
FE RAILWAY COMPANY; KOPPERS)	Judge Kennelly
INDUSTRIES, INC.; MONSANTO)	Magistrate Judge Ashman
COMPANY; DOW CHEMICAL)	
COMPANY; AND VULCAN)	
MATERIALS COMPANY)	
)	
Defendants.)	
)	

**DEFENDANTS' MOTION FOR LEAVE TO FILE
COMBINED SURREPLY TO PLAINTIFFS' MOTION TO REMAND AND MOTION
FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE OF CERTAIN PLAINTIFFS**

Defendants respectfully move this Court for leave to file the short attached Surreply to respond to the entirely new arguments made in Plaintiffs' reply brief in support of their Motion to Remand and Motion for Voluntary Dismissal Without Prejudice of Certain Plaintiffs (the "Motions"):

1. In their Motions, Plaintiffs claimed that two post-removal maneuvers – a purported "stipulation" to separate trials and a request to voluntarily dismiss enough plaintiffs to drop below the 100-plaintiff requirement for a CAFA "mass action" – destroy this Court's removal jurisdiction.

2. In their reply brief, Plaintiffs argue for the first time that their "stipulation" is actually not a post-removal effort to defeat federal jurisdiction, but rather a "clarification" of an

"ambiguity" in their Complaint. (*See* Reply at 3-6). Plaintiffs cite more than a dozen new cases that purportedly support this new argument. (*Id.* at 4-5).

3. Neither this argument nor the supporting case law was raised in Plaintiffs' Motion to Remand and Motion for Voluntary Dismissal. Defendants therefore seek leave to briefly address these issues in a surreply.

WHEREFORE, Defendants respectfully request that this Court grant them leave to file the attached Combined Surreply to Plaintiffs' Motion to Remand and Motion for Voluntary Dismissal Without Prejudice of Certain Plaintiffs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Robert L. Shuftan, an attorney, state that I have served true and correct copies of the foregoing *Defendants' Motion for Leave to File Combined Surreply to Plaintiffs' Motion to Remand and Motion for Voluntary Dismissal Without Prejudice of Certain Plaintiffs* upon the below attorneys via overnight mail on February 25, 2008 and upon all other attorneys of record through the Court's CM/ECF system:

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